

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1.
 - a. Whether there should be additional reimbursement for date of service 2-6-01?
 - b. The request was received on 2-5-02.

II. EXHIBITS

1. Requestor, Exhibit 1:
 - a. TWCC-60 and Letter Requesting Dispute Resolution
 - b. HCFA 1450
 - c. EOBs
 - c. Reimbursement data
 - e. Medical Records
 - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit 2:
 - a. TWCC-60 and Response to a Request for Dispute Resolution
 - b. HCFA 1450
 - c. EOBs
 - d. Reimbursement data
 - e. Medical Records
 - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g)(3), the Division forwarded a copy of the requestor's 14-day response to the insurance carrier on 6-25-02. Per Rule 133.307 (g)(4), the carrier representative signed for the copy on 6-25-02. The response from the insurance carrier was received in the Division on 6-27-02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Medical Dispute is reflected as Exhibit #3 of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: per letter dated 03-28-02:
“The date of service involved in this dispute was from February 6, 2001 for treatment regarding the above-referenced claimant’s work-related injury. The Carrier denied payment with payment exception code ‘M’ items provided in the UB-92, which were treatment codes without a ‘MAR’.”
2. Respondent: per letter dated 6-26-02:
“The Requestor billed \$18165.89 as a facility fee. (Respondent) paid \$766.49. The amount in dispute is \$17399.40. The Requestor has failed to establish that its charges and the reimbursement that it seeks is fair and reasonable and complies with the Texas Workers’ Compensation Act or TWCC Rules.”

IV. FINDINGS

1. Based on Commission Rule 133.307 (d)(1&2), the only date of service (DOS) eligible for review is 2-6-01.
2. The provider, an ambulatory surgery center, billed a total of \$18,165.89 on the DOS in dispute.
3. The carrier reimbursed \$766.49.
4. The EOB has the denial “5 – G-Unbundling/Reimbursement based on or included in the basic allowance of the appropriate procedure”; “907 – N – Not appropriately documented/Texas required bill identification”; “705 – M No MAR/ASC reimbursement is based on fees established to be fair and reasonable in your geographical area”.
5. Reaudit dated 9-27-01 reflected, “As you may or may not know, reimbursement specific to Ambulatory Surgical Procedure Guidelines is not addressed per the state fee schedule. Therefore, in accordance with Texas Administrative Code Section 133.304 (i), and as a matter of establishing a ‘Fair and Reasonable’ level of reimbursement, the following methodology has been developed by in order to fairly and consistently reimburse for such services...Based on the ‘Fair and Reasonable’ methodology Kemper has determined the payment issued to your facility as appropriate.”
6. Per the TWCC-60, the amount in dispute is \$17,399.40.

V. RATIONALE

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, “shall be reimbursed at a fair and reasonable rate...”

Section 413.011 (d) of the Texas Labor Code states, “Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines.”

Commission Rule 133.304 (i)(1-4) places certain requirements on the carrier when reducing the billed amount to fair and reasonable. The carrier has submitted its methodology and though, the entire methodology may not necessarily be concurred in by the Medical Review Division, the requirements of the referenced Rule have been met.

The provider has submitted reimbursement data. The provider has submitted several EOBs from other carriers that reimbursed a higher percentage of the billed amount as well as EOBs from this carrier’s medical audit company that show a higher reimbursement rate on other medical bills. In addition, the provider has submitted a reimbursement log of other EOBs. This list shows the date of service, the amount billed, amount reimbursed, percentage of the billed amount reimbursed, and the pay of the bill.

Due to the fact that there is no current fee guideline for ASCs, the Medical Review Division has to determine what would be fair and reasonable reimbursement for the services provided. Both the carrier and the provider have submitted reimbursement data in support of its respective position. The carrier has submitted its methodology and the provider has submitted EOBs and payment log. The burden is on the Requestor to show that the amount of reimbursement requested is fair and reasonable and conforms to the criteria identified in Sec. 413.011 (d) of the Texas Labor Code.

The willingness of some carriers to provide reimbursement at or near the billed amount does not necessarily document that the billed amount is fair and reasonable and does not show how effective medical cost control is achieved, a criteria identified in Sec. 413.011(d) of the Texas Labor Code. Therefore, based on the evidence available for review, the Requestor has not established entitlement to additional reimbursement.

The above Findings and Decision are hereby issued this 7th day of August 2002.

Lesa Lenart, RN
Medical Dispute Resolution Officer
Medical Review Division